IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

WP(C).No. 28083 of 2004(R)

PETITIONER:

M.K.BAVA, (RTD.SUPERINTENDING ENGINEER P.W.D.), S/O.KOCHAMMED, MANIYATTUKUDI, ERAMALLOOR VILLAGE, NELLIKUZHI P.O. KOTHAMANGALAM 686 691.

BY M.K.BAVA(PARTY IN PERSON)

RESPONDENTS:
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1. THE STATE OF KERALA, REP. BY THE CHIEF SECRETARY, THIRUVANANTHAPURAM.

2. THE PRINCIPAL SECRETARY, PUBLIC WORKS (F) DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM.

3. THE CHIEF ENGINEER, P.W.D. & ADMINISTRATION, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 28083/2004 R

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE D.O. LETTER NO. A6-484/96 DT. 7/1/98.

EXT.P2. COPY OF THE LETTER NO. A6/484/96 DT. 10/3/98.

EXT.P3. COPY OF THE LETTER NO. 1026/95/DI/RDB DT. 18/3/98.

EXT.P4. COPY OF THE CHIEF TECHNICAL EXAMINER REPORT NO. 28907/FIW-C3/1998/FIND T. 25/4/98.

EXT.P5. COPY OF THE SHOW CAUSE NOTICE VIDE NO. 20948/F3/PWD DT. 13/12/2002.

EXT.P6. COPY OF THE SHOW CAUSE NOTICE REPLY.

EXT.P7. COPY OF THE ADDL. STATEMENTS LETTER NO. IA-2/2003 DT. 17/10/2003.

EXT.P8. COPY OF THE GOVT. ORDER GO RT NO. 829/2004/PWD DT. 13/08/2004.

EXT.P9. COPY OF THE LETTER DT. 22/4/98 BY THE ASST. ENGINEER, RDB SECTION CHENGANNUR.

EXT.P10. COPY OF THE LETTER DT. 24/2/98 SENT BY THE CONTRACTOR TO THE EXE. ENGINEER, KSRDB.

EXT.P11. COPY OF THE NOTE PREPARED IN OWN HANDWRITING OF THE SAID OFFICER, CONCERNING DETAILS OF EVENTS BETWEEN 4/6/97 TO 6/4/98.

EXT.P12. COPY OF THE SPECIAL CONDITIONS IN RESPECT OF THE MATTER.

EXT.P13. COPY OF THE JUDGMENT DT. 30/09/99 IN OP NO. 17239/99 OF THIS COURT.

EXT.P14. COPY OF THE LETTER NO. GE. 28/A/B/325/PWD DT. 21/6/00 THE ACCOUNTANT GENERAL 9A&E), THRISSUR.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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V.GIRI, J.

W.P.(C).No.28083 of 2004 R

Dated this the 24th day of October, 2007.

JUDGMENT

The petitioner essentially challenges Exts.P5 and P8 orders passed by the Government. Ext.P5 is only a show cause notice. Ext.P8 is a final order passed by the Government reducing the petitioner's pension by Rs.100/- under Rule 59b of Part III of the Kerala Service Rules.

2. Though several contentions have been urged in this writ petition, I do not think it necessary to consider them at this stage. It is now clear from the records that the petitioner was not heard before Ext.P8 order was passed by the Government. The petitioner has a right to show cause against the reduction of his pension and

also a right of personal hearing under Rule 59b of Part III of the Kerala Service Rules. An order, which visits the petitioner with adverse civil consequences, should have been preceded by notice and hearing.

3. In the circumstances, Ext.P8 is set aside in relation to the petitioner. The 2nd respondent is directed to hear the petitioner again and pass an appropriate orders, after considering his objections. This shall be done as expeditiously as possible, at any rate within four months from the date of receipt of a certified copy of the judgment, which shall be sent by the petitioner to the second respondent, as soon as he obtains it.

Writ petition is disposed of as above.

Sd/-

(V.GIRI)
JUDGE

sk/

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